



New York State's Technical Assistance Program

Request for Applications For Technical Assistance Providers

Issued: May 3, 2021

Designated Contacts for this Request for Applications:

Primary Contact: Ralph Volcy, Director of Procurement

Secondary Contact: John Discolo, Director of Procurement

All contacts/inquiries shall be made by email to the following address: TAProgram@esd.ny.gov

APPLICATIONS DUE DATE AND TIME:

On or before May 10, 2021 by 3 pm EST.

Applications must be emailed by this date and time.

Late applications cannot be accepted

I. INTRODUCTION

The mission of Empire State Development (ESD) is to promote a vigorous and growing state economy, encourage business investment and job creation, and support diverse, prosperous local economies across New York State through the efficient use of loans, grants, tax credits, real estate development, marketing and other forms of assistance.

A. Program Summary

Up to \$3,500,000 in grant support is available to chambers of commerce, trade associations and community non-profits that provide technical assistance (“Technical Assistance Providers”). The purpose of ESD’s Technical Assistance Program (“the Program”) is to strengthen and expand the capacity, products, and services of Technical Assistance Providers to micro and small businesses, for-profit independent arts and cultural organizations, non-profit organizations, and/or minority and women business enterprises (collectively “M/WBEs”) (see section IX, pages 11-13 of this Request For Application “RFA” for definitions) throughout New York State in applying for various federal and state COVID-19 financial assistance programs, including the soon to be released NYS COVID-19 Pandemic Small Business Recovery Grant Program.

B. Request for Applications Schedule

Release of Request for Applications	May 3, 2021
Deadline for Submission of Questions	May 4, 2021
Deadline for ESD to Respond to Questions	May 5, 2021
Submission of Applications	May 10, 2021 by 3:00 PM EST
Anticipated Announcement of Selections	May 17, 2021
Anticipated Contract Start Date	May 19, 2021

II. PROGRAM GUIDELINES

A. Projects

ESD seeks applications from Technical Assistance Providers that will have the following impacts in the communities in which they are in helping to address issues created by the COVID-19 pandemic. Tasks to be undertaken include:

1. Identify potential applicants applying for various federal and state COVID-19 financial assistance programs, including the soon to be released COVID-19 Pandemic Small Business Recovery Grant Program with emphasis on minority and women-owned enterprises;
2. Provide technical assistance to potential applicants applying for various federal and state COVID-19 financial assistance programs, including the soon to be released COVID-19 Pandemic Small Business Recovery Grant Program.

3. Aid in gathering necessary documentation needed to meet COVID-19 federal and state business program eligibility requirements, including the soon to be released COVID-19 Pandemic Small Business Recovery Grant Program;
4. Assist in reviewing, completing, and submitting applications to federal and state financial assistance programs, including the soon to be released COVID-19 Pandemic Small Business Recovery Grant Program;
5. Provide application follow up to micro and small businesses, for-profit independent arts and cultural organizations, and non-profits as well as track outcomes;
6. Serve as a conduit of information on available federal and state programs and resources for businesses impacted by the COVID-19 pandemic;
7. Assist businesses with resiliency, retention, and operational challenges arising from COVID-19 pandemic; and,
8. Expand the capacity of Technical Assistance Providers to offer multi-lingual counseling, including legal and accounting expertise to micro and small businesses, for-profit independent arts and cultural organizations, and non-profits.

B. Eligibility Requirements

To be eligible to receive grant proceeds from ESD, all applicants must:

1. Obtain New York State Prequalification and related registration standards through the Grants Gateway System. This will ensure eligibility to participate in this and future RFAs and receive potential program awards (see instructions in section X (2);
2. Primarily focus its activities on M/WBEs and/or micro and small business, for-profit independent arts and cultural organizations, and non-profits applicants, as described in section IV, part III of this RFA;
3. Be legally able to receive and use the proceeds as herein stated;
4. Meet any other requirements herein stated for the specific purpose of the grant; and
5. Be current with reporting requirements for any other ESD assistance, including any previous program funding.

C. Applications

1. Organizations must demonstrate the ability to provide technical assistance services in an independent and impactful way; and

2. Applicant must demonstrate strong institutional capacity in providing independent technical assistance services, such as one-on-one counseling (remotely or in-person while adhering to social distancing guidelines) as well as the ability and infrastructure to provide a robust remote or in-person training service delivery component.

D. Grant Amount

Grant awards will generally not exceed \$100,000. **Proposals submitted for greater than \$100,000 will be rejected without review.** ESD reserves the right to award grants in amounts greater than \$100,000 depending upon the number and quality of applications received and other considerations set forth in this RFA. If funding availability increases or decreases during the designation period, ESD will work with designees to adjust budgets accordingly.

E. Project Timeline

Project period will be May 19, 2021 through April 18, 2022.

F. Additional Conditions

1. ESD will establish reporting requirements to account for the utilization of grant proceeds by the Technical Assistance Provider. The grant is to be used only for the purposes stated in the organization's application or otherwise approved, in writing, by ESD;
2. All activities generated by funding from ESD, or toward which ESD grant proceeds are used, shall be conducted according to the standard business practices of the recipient organization and any agreements with ESD; and
3. Applicants agrees to the terms and conditions of the Grant Disbursement Agreement (see Appendix A – Grant Disbursement Agreement).

III. SCOPE OF WORK

The Program will make grants available to Technical Assistance Providers for the general purpose to provide Technical Assistance:

A. Provision of Technical Assistance

1. Funds may be used to provide Technical Assistance ("TA") to M/WBEs and/or micro and small business, for-profit independent arts and cultural organizations, and non-profit applicants that had COVID-19 business interruption issues and capital access needs. This TA should be geared toward ensuring the success of these NYS businesses in applying for an array of federal and state COVID-19 financial assistance programs, including the soon to be released COVID-19

Pandemic Small Business Recovery Grant Program. In addition, funds may be used to provide TA to applicants to obtain NYS M/WBE Certification.

2. TA business development topics, such as accessing various federal and state COVID-19 financial assistance programs, addressing and devising resiliency, retention, and operational challenges and strategies, financial record keeping and financial statement preparation, tax and legal issues, marketing, business diversification, lack and use of technology, etc. TA may be provided by qualified staff or outside business development consultants.

For grant proceeds to be used toward Technical Assistance:

1. The applicant must take specific actions to ensure the participation of M/WBEs and/or micro and small business, for-profit independent arts and cultural organizations, and non-profits in the TA program; and
2. The TA must directly benefit and be relevant to these NYS businesses affected by COVID-19 pandemic.

Preference will be given to applications that emphasize the provision of one-on-one multi-lingual consultation and training workshops/seminars to the applicants, either remotely or in-person while adhering to social distancing guidelines.

IV. APPLICATION - TECHNICAL ASSISTANCE PROVIDERS

PART I: ORGANIZATION INFORMATION			
1	Legal Name of Organization		
2	Organization Address City / State / Zip		
3	Organization County		
4	DBA name if applicable		
5	Applicant Contact Name and Title		
6	Applicant Contact Address City / State / Zip		
7	Applicant Phone Number	Contact Email:	
8	Form of Business: <input type="checkbox"/> For-Profit <input type="checkbox"/> Chamber of Commerce <input type="checkbox"/> Not-For-Profit <input type="checkbox"/> Trade Association <input type="checkbox"/> Local Development Corporation <input type="checkbox"/> Other:		
9	Federal Tax ID Number:		
10	DUNS Number		
11	NYS Charity Registration #		
12	NYS Unemployment Insurance #		
13	NYS Grants Gateway https://grantsreform.ny.gov Refer to Item #46 to register	<input type="checkbox"/> YES	Last Date updated:
		<input type="checkbox"/> NO	If no, Please Explain
		<input type="checkbox"/> Not Applicable (Please explain)	
14	Project Counties Covered		
15	Project Location Assembly District #	Member Name	
16	Project Location Senate District #	Member Name	
17	Is the organization currently seeking any other New York State assistance for this project? <input type="checkbox"/> YES. <input type="checkbox"/> NO		
18	OTHER ESD FUNDING: List any other prior relevant New York State assistance applied for or received:		

PART II: ORGANIZATION INFORMATION – Please limit your narrative to small business assistance in New York State (for any item that requires additional space, please identify the number on the response).

<p>19</p>	<p>Mission and History: Provide an executive summary of the organization’s mission and history, including the number of years of providing technical and financial assistance to M/WBEs and/ or micro and small businesses and efforts to serve start-up firms and expanding businesses (including experience providing disaster relief financial services).</p>
<p>20</p>	<p>Describe the geographic service area(s) and target populations served. Please include any emphasis on startups, expanding businesses, credit risks, other businesses’ lack of credit or inability to secure capital in the traditional market. Please comment on the distribution of clients served across your geographic service area and the percentage of your clients that are located in distressed and/ or highly distressed communities. The types of financial and technical assistance products and services offered and how many clients receive these services each year and how the organization sees that growth in the coming year.</p>
<p>21</p>	<p>Marketing strategy and outreach coordination with other community-based organizations. Please be specific about how the organization works with other community-based organizations to assist NYS businesses impacted by the COVID-19 pandemic. Please include efforts to work with women and minority organizations, associations or chambers of commerce.</p>

PART III: PROJECT ACTIVITIES, RESULTS AND IMPLEMENTATION – Please describe in detail how this ESD grant funds will be used (for any item that requires additional space, please identify the number on the response).

22	<p>Describe the specific activities that will be undertaken and funded through the project. Explain in detail the nature of the technical assistance and systems in place to deliver these services, and the ways that it will assist NYS businesses affected by the COVID-19 pandemic in applying to the various federal and state COVID-19 financial assistance programs, including the soon to be released COVID-19 Pandemic Small Business Recovery Grant Program. Explain the overall technical assistance program as well as the specific ways in which ESD grant funds will be used and deployed expediently.</p>
23	<p>Describe the training workshops/seminars either remotely or in-person (while adhering to social distancing guidelines), specific actions and efforts that will be taken to ensure the participation of minorities and women, and to continue to engage participants through the financial assistance application process (tracking of business outcomes is required and must be reported monthly).</p>
24	<p>Identify the reasons that your organization requires grant assistance in order to undertake these activities.</p>
25	<p>Identify any other entities involved in the project (other organizations, units of local, state or federal government, etc.) and describe the nature of their involvement.</p>
26	<p>List the specific goals that the organization will achieve as a direct result of the requested grant funding and provide a timeline for the project (see Part V, Project Description – Tasks & Timeline).</p>

27	List the measurable outcomes and the economic impact to be achieved as a direct result of ESD grant funding. These goals should be realistic and achievable based on the applicant’s experience in providing Technical Assistance (the proposed goals should reflect only the funding being requested).
28	Indicate the number of businesses that your organization will provide and pre- and post-Technical Assistance.

PART IV: PROJECT BUDGET (for any item that requires additional space, please identify the number on the response).

USE OF FUNDS	TOTAL ESD FUNDING
Salaries	\$
Fringes	\$
Consultant Fees	\$
Technical Assistance Costs	\$
TOTAL	\$
<p>Use of Funds: Please identify staff with job title and description, consultants if known or types of consultancy services you plan to contract, and breakdown of all other technical assistance costs.</p>	

PART V: PROJECT DESCRIPTION - Tasks & Timeline (please list a description of proposed activities and anticipated dates of completion that reflect the direct result of grant funding).

TASKS	TIMELINE
PROJECT START DATE	5/19/2021
OUTREACH	
TECHNCIAL ASSISTANCE (TA)	
FOLLOW UP	
MONTHLY REPORTS	
PROJECT COMPLETION DATE	4/18/2022

PART VI: REQUIRED DISCLOSURES AND CERTIFICATIONS - The following sections are pre-requisites and certifications that must be in place for participation in the program.

DISCLOSURE AND ACCOUNTABILITY CERTIFICATIONS (NOTE: If your answer in 'YES' in any of the questions below, please provide an explanation in an attachment)															
29	<table border="1"> <tr> <td>1. Is the Institution currently the subject of any litigation, or is any litigation threatened, which would have a material adverse effect on the Company's financial condition?</td> <td style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</td> </tr> <tr> <td>2. Has the institution or any of its affiliates ever been involved in bankruptcy, a creditor's rights or receivership proceeding, or sought protection from creditors?</td> <td style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</td> </tr> <tr> <td>3. Has the Institution ever settle a debt with a lending institution for less than the full amount outstanding?</td> <td style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</td> </tr> <tr> <td>4. Has any senior manager or principal of the Institution ever been convicted or any felony or misdemeanor, other than minor traffic violations, or are any such charges pending?</td> <td style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</td> </tr> <tr> <td>5. Has the Institution or any of its affiliates, been cited for a violation of federal, state, or local laws or regulations with respect to labor practices, hazardous wastes, environmental pollution or operating practices?</td> <td style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</td> </tr> <tr> <td>6. Are there any outstanding judgments or liens pending against the Institution other than liens in the normal course of business?</td> <td style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</td> </tr> <tr> <td>7. Is the Institution delinquent on any New York State, federal or local tax obligations?</td> <td style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</td> </tr> </table>	1. Is the Institution currently the subject of any litigation, or is any litigation threatened, which would have a material adverse effect on the Company's financial condition?	<input type="checkbox"/> YES <input type="checkbox"/> NO	2. Has the institution or any of its affiliates ever been involved in bankruptcy, a creditor's rights or receivership proceeding, or sought protection from creditors?	<input type="checkbox"/> YES <input type="checkbox"/> NO	3. Has the Institution ever settle a debt with a lending institution for less than the full amount outstanding?	<input type="checkbox"/> YES <input type="checkbox"/> NO	4. Has any senior manager or principal of the Institution ever been convicted or any felony or misdemeanor, other than minor traffic violations, or are any such charges pending?	<input type="checkbox"/> YES <input type="checkbox"/> NO	5. Has the Institution or any of its affiliates, been cited for a violation of federal, state, or local laws or regulations with respect to labor practices, hazardous wastes, environmental pollution or operating practices?	<input type="checkbox"/> YES <input type="checkbox"/> NO	6. Are there any outstanding judgments or liens pending against the Institution other than liens in the normal course of business?	<input type="checkbox"/> YES <input type="checkbox"/> NO	7. Is the Institution delinquent on any New York State, federal or local tax obligations?	<input type="checkbox"/> YES <input type="checkbox"/> NO
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<p style="text-align: center;">_____</p> <p>Applicant Signature</p> <p>Print Name / Title</p> <p>Date</p>															

V. SELECTION CRITERIA

A. Proposal Scoring

ESD will balance individual application scores with priorities for geographic distribution across NYS. The evaluation criteria will include the following:

• Completeness of the application	15%
• Organizational capacity and stability	30%
• Applicants capacity to illustrate a strategic plan to address the stated need and describe how ESD’s assistance will help the grantee achieve this plan	30%
• Compliance of the application with the “Guidelines” section and other terms and conditions of this Request for Application	15%
• Diversity Practices	10%

B. Additional Considerations

- 1) By submitting an application, each applicant authorizes ESD to contact any and all other persons identified in its application or in any investigation conducted by or on behalf of ESD or the State and obtain the release of pertinent financial and other information, as well as to obtain verification of the information provided by each applicant.;
- 2) ESD will not be held liable for any costs incurred by any applicant for work performed in the preparation and production of an application, nor for any work performed prior to written authorization from ESD to proceed. All applications submitted will become the property of ESD; and

C. ESD Rights

ESD reserves the right to:

- 1) Reject any or all applications received;
- 2) Award grants in any amount;
- 3) Require the submission of modifications or additions to applications as a condition of further participation in the selection process; and
- 4) Amend this Request for Applications.

VI. QUESTIONS

- A.** All questions, comments, requests for clarification or any other communication regarding this Request for Applications must be submitted via the designated email TAProgram@esd.ny.gov with the email subject line: Request for Applications for Technical Assistance Providers by no later than May 4,2021.
- B.** In addition, any changes, additions or deletions to this Request for Applications will also be posted on the NYS Contract Reporter, along with the electronic version of this application. Respondents should note that any necessary clarification must be sought by the deadline for questions set forth in the “Request for Applications Schedule” section in this application.
- C.** Applicants are urged to check NYS Contract Reporter frequently for notices of any clarification of or changes, additions, or deletions to this Request for Applications.

VII. SUBMISSION OF APPLICATIONS

- A.** Applications must be submitted electronically via the designated email TAProgram@esd.ny.gov with the email subject line: Request for Applications for Technical Assistance Providers.
- B.** Applications submitted in a manner other than as described in these instructions (e.g., facsimile, hard copies) will not be accepted.

VIII. GENERAL PROVISIONS

The issuance of the RFA and the submission of an application by a firm or the acceptance of such an application by ESD does not obligate ESD in any manner. ESD reserves the right to:

- A.** Amend, modify or withdraw this RFA;
- B.** Revise any requirement of RFA;
- C.** Require supplemental statements or information from any responsible party;
- D.** Accept or reject any or all responses hereto;
- E.** Extend the deadline for submission of application hereto;
- F.** Negotiate potential contract terms with any applicants to this RFA;
- G.** Discussions with any applicant to this RFA to correct and/or clarify application which do not conform to the instructions contained herein;
- H.** Cancel, or reissue in whole or in part, this RFA, if ESD determines in its sole discretion that it is its best interest to do so; and
- I.** Extend the term of any agreement on terms consistent with this RFA.

ESD may exercise the foregoing rights at any time without notice and without liability to any applicant or any other party for its expenses incurred in preparation of applications hereto or otherwise. All costs associated with applying to this RFA will be at the sole cost and expense of the applying firm.

All information submitted in response to this RFA is subject to the Freedom of Information Law (FOIL), which generally mandates the disclosure of documents in the possession of ESD upon the request of any person unless the content of the document falls under a specific exemption to disclosure. In addition, all applications may be discussing at meetings of the ESD Directors, which meetings are subject to the Open Meetings Law.

IX. DEFINITIONS

For the purposes of this Application for Assistance the following words or terms shall mean as follows:

A. Micro Business

A micro business which is a resident in New York State, independently owned and operated, not dominant in its field and employs ten or less person.

B. Small Businesses

A small business shall be deemed to be one which is resident in New York State, independently owned and operated, not dominant in its field, and employs one hundred or less persons.

C. For-Profit Independent Arts and Cultural Organization

A for-profit independent arts and cultural organization is a small or medium sized private for-profit, independently operated live-performance venue, promoter, production company, or performance related business located in New York State negatively impacted by COVID-19 health and safety protocols, and having one hundred or less full-time employees, excluding seasonal employees. The qualifying organizations under this definition may include businesses engaged in a field including, but not limited to, architecture, dance, design, film, music, theater, opera, media, literature, museum activities, visual arts, folk arts and casting.

D. Minority Business Enterprise (“MBE”)

A business enterprise, including a sole proprietorship, partnership or corporation that is: (i) at least fifty-one percent (51%) owned by one or more Minority Group Members; (ii) an enterprise in which such minority ownership is real, substantial and continuing; (iii) an enterprise in which such minority ownership has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; (iv) authorized to do business in the State of New York, is organized on a for-profit basis, and is independently owned and operated out of a fixed business location; (v) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars, as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and (vi) an enterprise that is a small business pursuant to subdivision twenty of this section.

E. Minority Group Member

A United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups: (i) Black persons having origins in any of the Black African racial

groups; (ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin, regardless of race; (iii) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands; and (iv) Native American or Alaskan native persons having origins in any of the original peoples of North America.

F. Women-owned Business Enterprise (“WBE”)

A business enterprise, including a sole proprietorship, partnership or corporation that is: (i) at least fifty-one percent (51%) owned by one or more citizens or permanent resident aliens who are women; (ii) an enterprise in which the ownership interest of such women is real, substantial and continuing; (iii) an enterprise in which such women ownership has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; and (iv) authorized to do business in the State of New York, is organized on a for-profit basis, and is independently owned and operated out of a fixed business location; (v) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars, as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and (vi) an enterprise that is a small business pursuant to subdivision twenty of this section.

G. M/WBE Certification

The official determination by the New York State Division of Minority and Women’s Business Development of a business enterprise as a bona fide minority and/or woman-owned business enterprise.

For more information on M/WBE certification, please see our website at: www.esd.ny.gov/mwbe.html or call (1-800-782-8369) for more information.

H. Technical Assistance

Business technical assistance is provided to an entrepreneur to address ongoing or specific challenges or needs arising from COVID-19, such as application to an array of federal and state disaster programs that includes SBA disaster loans, Paycheck Protection Program, development of a business plan or the resolution of a production, supply chain, operation, resiliency, or marketing problem. When a business is in formation, monitoring will help define specific and/or ongoing needs early. This assistance often is on a one-to-one basis (physically or virtually) in a consulting format.

Technical assistance may also be provided to assist clients in obtaining State M\WBE Certification.

I. New York Prequalification

The Grants Gateway was established to improve the way grants are administered by the State of New York. Beginning July 31, 2013, all not-for-profit organizations receiving funds from New York State agencies and authorities must be prequalified in Grants Gateway prior to the

execution of a contract or a contract amendment. For additional information, please refer to GrantsReform@Budget.ny.gov.

X. SUBMISSION REQUIREMENTS

A. PROCUREMENT FORMS AND REQUIREMENTS

1) Vendor Responsibility Questionnaire

All Respondents to this RFA must be “responsible,” which in this context means that they must have the requisite financial ability, organizational capacity and legal authority to carry out its obligations under this RFA, and in addition must demonstrate that both the Respondent and its principals have and will maintain the level of integrity needed to contract with New York State entities such as ESD. Further, the Respondent must show satisfactory performance of all prior government contracts. Accordingly, the contract to be entered into between ESD and the Respondent, if any, shall include clauses providing that the Respondent remain “responsible” throughout the term of the contract, that ESD may suspend the contract if information is discovered that calls into question the responsibility of the contracting party, and that ESD may terminate the contract based on a determination that the contracting party is non-responsible. On request, model language to this effect will be provided to any Respondent to this RFA.

To assist in the determination of responsibility, ESD requires that all respondents to this RFA register in the State's Vendor Responsibility System (“Vend-Rep System”). The Vend-Rep System allows business entities to enter and maintain their Vendor Responsibility Questionnaire information in a secure, centralized database. New York State Procurement Law requires that state agencies award contracts only to responsible vendors. Respondents are to file the required Vendor Responsibility Questionnaire online via the Vend-Rep System or may choose to complete and submit a paper questionnaire. Please include a copy of your Vend-Rep submission receipt or paper questionnaire with your application.

To enroll in and use the Vend-Rep System, see the System Instructions available at www.osc.state.ny.us/vendrep or go directly to the Vend-Rep system online at <https://portal.osc.state.ny.us>. For direct Vend-Rep System user assistance, the Office of the State Comptroller’s Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at helpdesk@osc.state.ny.us.

Respondents opting to file a paper questionnaire can obtain the appropriate questionnaire from the Vend-Rep website (http://www.osc.state.ny.us/vendrep/forms_vendor.htm) and execute accordingly pertaining to the company’s trade industry. Per the website, respondents are to “Select the questionnaire which best matches the business type (either For-Profit or Not-For-Profit) and business activity (Construction or Other).”

2) New York State Prequalification System for Grants Contract Vendors

As part of Governor Cuomo’s initiative to better serve the people of the State of New York, a web-based grants management system, Grants Gateway, was launched in spring 2013. The

Grants Gateway was established to improve the way grants are administered by the State of New York. Beginning July 31, 2013, all not-for-profit organizations receiving funds from New York State agencies and authorities must be prequalified in Grants Gateway prior to the execution of a contract or a contract amendment.

Based on the above information, you are required to complete the steps outlined below to receive an executed contract or contract amendment. If you are not the appropriate contact for this communication, please forward to the person in your organization responsible for the management of grant funding. Send any questions to Greta Carter-Williams, ESD's program representative, at gcwilliams@esd.ny.gov or email GrantsReform@Budget.ny.gov with Prequalification in the subject line.

Register with the Grants Gateway

- a. The Registration Form is available for download at www.grantsreform.ny.gov. The Registration Form can be accessed by clicking the link at the top of the page in yellow labeled "Click HERE to access the Portal or browse for more information below".
- b. Include your State Financial System ("SFS") Vendor ID on the Form; if you are a new vendor and do not have an SFS Vendor ID, include a Substitute for W-9 with your signed, notarized registration (also available from the Grants Reform Web site).
- c. All registrations must include an Organization Chart in order to be processed.
- d. Mail the completed Registration Form, Organization Chart that shows the Head of your Organization, and Substitute W-9 (if new vendor) to:
Division of Budget - Grants Reform
Agency Building 1 - 5th Floor
Empire State Plaza, Albany, NY 12224
- e. When you receive your login information via email, log in and change your password. This password will allow access to the Grants Reform Web site.
- f. Associate your organization with a State agency (ESD) by clicking on Organization(s) and then selecting Organization Information; complete all required fields.
- g. Complete the Document Vault by uploading requested documents and answering all questions.
- h. Upon completion of the Document Vault, submit it for review and prequalification. If you believe your organization has submitted its Prequalification application and has submitted any requested documents omitted from your registration, please contact ESD's program representative or the Grants Reform Team by emailing GrantsReform@Budget.ny.gov with Prequalification in the subject line.

3) CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

NEW YORK STATE LAW

Pursuant to New York State Executive Law Article 15-A and 5 NYCRR §§140-145, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified

Minority and Women-owned Business Enterprises (“MWBE”) and the employment of minority group members and women in the performance of ESD contracts.

BUSINESS PARTICIPATION OPPORTUNITIES FOR MWBEs

For contracts resulting from this solicitation, ESD may establish a goal for MWBE participation based on the scope of work and project description identified in the RFA response. Such contracts may set forth additional requirements that will encourage business participation opportunities for MWBEs. A contractor (“Contractor”) on any contract resulting from this procurement (“Contract”) must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. To that end, by submitting a response to this RFA, the respondent agrees that ESD may withhold payment pursuant to any Contract awarded as a result of this RFA pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how ESD will evaluate a Contractor’s “good faith efforts,” refer to 5 NYCRR § 142.8.

The respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a supplier that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60 percent of the total value of the contract. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE.

In accordance with 5 NYCRR § 142.13, the respondent further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in a Contract resulting from this RFA, such finding constitutes a breach of contract and ESD may withhold payment as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a bid or application, a respondent agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a respondent may arrange to provide such evidence via a non-electronic method by contacting the Office of Contractor and Supplier Diversity (“OCSD”) at OCSD@esd.ny.gov.

Additionally, a respondent will be required to submit the following documents and information as evidence of compliance with the foregoing:

- A. An MWBE Utilization Plan with their bid or application. Any modifications or changes to an accepted MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to ESD for review and approval.

ESD will review the submitted MWBE Utilization Plan and advise the respondent of ESD acceptance or issue a notice of deficiency within 30 days of receipt.

- B. If a notice of deficiency is issued, the respondent will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to OCSD at OCSD@esd.ny.gov, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify the respondent and direct the respondent to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or application.

ESD may disqualify a respondent as being non-responsive under the following circumstances:

- a) If a respondent fails to submit an MWBE Utilization Plan;
- b) If a respondent fails to submit a written remedy to a notice of deficiency;
- c) If a respondent fails to submit a request for waiver; or
- d) If ESD determines that the respondent has failed to document good faith efforts.

The successful respondent will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to ESD, but it must be made no later than prior to the submission of a request for final payment on the Contract.

The successful respondent will be required to submit a quarterly MWBE Contractor Compliance & Payment Report to ESD, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity Requirements

By submission of a bid or application in response to this solicitation, the respondent agrees with all of the terms and conditions in [SCHEDULE B – PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSIENSS ENTERPRISES: REQUIREMENTS AND PROCEDURES](#). The respondent is required to ensure that it and any subcontractors awarded a subcontract for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the “Work”), except where the Work is for the beneficial use of the respondent, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

The respondent will be required to submit a Minority and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement, OCSD-1, to ESD with its bid or application.

If awarded a Contract, respondent shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by ESD on a quarterly basis during the term of the Contract.

Pursuant to Executive Order #162, contractors and subcontractors will also be required to report the gross wages paid to each of their employees for the work performed by such employees on the contract utilizing the Workforce Utilization Report on a quarterly basis.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

The required forms can be found at the following web addresses:

Form OCSD-1: <https://esd.ny.gov/sites/default/files/OCSD-1-Policy-Statement.pdf>

Form OCSD-2: <https://esd.ny.gov/sites/default/files/OCSD-2-Staffing-Plan.pdf>

Form OCSD-3:

<https://esd.ny.gov/sites/default/files/OCSD-3-Workforce-Utilization-Report.xlsx>

Form OCSD-4: <https://esd.ny.gov/sites/default/files/OCSD-4%20Utilization%20Plan.pdf>

Form OCSD-5: <https://esd.ny.gov/sites/default/files/OCSD-5-Waiver-Request-Form.pdf>

Form OCSD-6: <https://esd.ny.gov/sites/default/files/OCSD-6%20-%20Contractor%20Compliance%20Payment%20Report.pdf>

In the event that the above links are unavailable or inactive, the forms may also be requested from OCSD at OCSD@esd.ny.gov.

PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLE VETERAN OWNED BUSINESSES

Article 17-B of the New York State Executive Law provides for more meaning participation in public procurement by certified Service Disabled Veteran-Owned Businesses ("SDVOB"), thereby further integrating such businesses into New York State's economy ESD recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities form maximum feasible participation in the performance of ESD contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

Contract Goals

- A.** For purposes of this solicitation, ESD will establish a goal based on the scope of work and project description identified in the RFA response. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs found at: http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf. Questions regarding compliance with SDVOB participation goals should be directed to the Designated Contacts. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veterans' Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the Contract.
- B.** Contractor must document "good faith efforts" to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract.

SDVOB Utilization Plan

- A.** In accordance with 9 NYCRR § 252.2(i), Bidders are required to submit a completed SDVOB Utilization Plan on Form OCSD-4.
- B.** The Utilization Plan shall list the SDVOBs that the Bidder intends to use to perform the Contract, a description of the work that the Bidder intends the SDVOB to perform to meet the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Bidder acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause loss of eligibility to submit future bids and/or withholding of payment. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to ESD.
- C.** ESD will review the submitted SDVOB Utilization Plan and advise the Bidder/Contractor of ESD acceptance or issue a notice of deficiency within 20 days of receipt.
- D.** If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to ESD a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five business days of notification by ESD, a request for a partial or total waiver of SDVOB participation goals on OCSD-5. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or application.

- E. ESD may disqualify a Bidder's bid or application as being non-responsive under the following circumstances:
 - a) If a Bidder fails to submit an SDVOB Utilization Plan;
 - b) If a Bidder fails to submit a written remedy to a notice of deficiency;
 - c) If a Bidder fails to submit a request for waiver; or
 - d) If ESD determines that the Bidder has failed to document good faith efforts.
- F. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.
- G. Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, ESD shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

Request for Waiver

- A. Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the Designated Contacts at ESD for guidance.
- B. In accordance with 9 NYCRR § 252.2(m), a Bidder/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form OCSD-5, accompanied by supporting documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for a waiver is submitted with the SDVOB Utilization Plan and is not accepted by ESD at that time, the provisions of clauses II (C), (D) & (E) will apply if the documentation included with the Bidder's/Contractor's waiver request is complete, ESD shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.
- C. Contractor shall attempt to utilize, in good faith, the SDVOB identified within the SDVOB Utilization Plan, during the performance of the Contract Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to ESD, but must be made no later than prior to the submission of a request for final payment on the Contract.
- D. If ESD, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (OCSD-6) determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, ESD may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to OCSD.

Required Good Faith Efforts

In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

- 1) Copies of solicitations to SDVOBs and any responses thereto.
- 2) Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected.
- 3) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by ESD with certified SDVOBs whom ESD determined were capable of fulfilling the SDVOB goals set in the Contract.
- 4) Information describing the specific steps undertaken to reasonably structure the Contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.
- 5) Other information deemed relevant to the waiver request.

Monthly SDVOB Contractor Compliance Report

In accordance with 9 NYCRR § 252.2(q), Contractor is required to report Monthly SDVOB Contractor Compliance to ESD during the term of the Contract for the preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using form OCSD-6 available on the ESD website and should be completed by the Contractor and submitted to ESD, by the 10th day of each month during the term of the Contract, for the preceding month's activity to: OCSD@esd.ny.gov.

Breach of Contract and Damages

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.

General inquiries or questions relating to aforementioned policies, SDVOB participation and the goals specified herein may be addressed to OCSD at OCSD@ESD.NY.GOV.